

#### § 4.123

particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

#### § 4.123 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the presiding Board member or hearing officer shall otherwise order.

#### § 4.124 Submission of briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding Board member or hearing officer at the conclusion of the hearing.

#### POSTHEARING PROCEDURE RULES

#### § 4.125 Decisions.

Decisions of the Board will be made upon the record, as described in § 4.114(b). Copies thereof will be forwarded simultaneously to both parties by certified mail.

#### § 4.126 Motions for reconsideration.

A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon in support of the motion, and shall be filed within 30 days from the date of the receipt of a copy of the Board's decision by the party filing the motion. Reconsideration of a decision, which may include a hearing or rehearing, may be granted if, in the judgment of the Board, sufficient reason therefor appears.

#### § 4.127 Dismissals.

(a) *Dismissal without prejudice.* In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with the disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an

#### 43 CFR Subtitle A (10-1-05 Edition)

inordinate length of time, the board may, in its discretion, dismiss such an appeal from the docket without prejudice to its reinstatement when the cause of suspension has been removed. Unless either party or the Board acts within 3 years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed to have been made with prejudice.

(b) *Dismissal for failure to prosecute or defend.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If no cause is shown, the Board may take appropriate action.

#### § 4.128 Remands from courts.

Whenever any matter is remanded to the Board from any court for further proceedings, each of the parties, shall, within 20 days of such remand, submit a report to the Board, recommending procedures to be followed in order to comply with the court's order. The Board will review the reports and issue the appropriate special orders.

#### APPENDIX I TO SUBPART C OF PART 4— SUGGESTED FORM OF NOTICE OF APPEAL

Interior Board of Contract Appeals, 801  
North Quincy Street, Arlington, VA 22203

(Date) \_\_\_\_\_  
(Name of Contractor) \_\_\_\_\_  
(Address) \_\_\_\_\_  
Contract No. \_\_\_\_\_  
(Invitation No.) \_\_\_\_\_  
Specifications No. \_\_\_\_\_  
(Name and Location of Project) \_\_\_\_\_  
(Name of Bureau or Office) \_\_\_\_\_

The undersigned contractor appeals to the Board of Contract Appeals from decision or findings of fact dated \_\_\_\_\_, by:  
(Name of Contracting Officer) \_\_\_\_\_

The decision or findings of fact is erroneous because: (State specific facts and circumstances and the contractual provisions involved.)  
(Signature) \_\_\_\_\_  
(Title) \_\_\_\_\_

[46 FR 57499, Nov. 24, 1981, as amended at 67 FR 4368, Jan. 30, 2002]